

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

CHRISTINA MENZEL,

Plaintiff,

v.

ROADGET BUSINESS PTE. LTD., a
Singapore private limited company;
ZOETOP BUSINESS CO., LIMITED, a
Chinese limited company; FASHION
DIRECT CORP., a Delaware corporation;
SHEIN DISTRIBUTION
CORPORATION, a Delaware
corporation; SHEIN TECHNOLOGY
LLC, a Delaware limited liability
company; SHEIN US SERVICES, LLC, a
Delaware limited liability company; and
FASHION CHOICE PTE. LTD., a
Singapore private limited company,

Defendants.

Case No. 1:24-cv-860 (JGK) (SC)

**DECLARATION OF ANDREW GERBER IN SUPPORT OF PLAINTIFF'S MOTION
FOR LEAVE TO FILE SECOND AMENDED COMPLAINT**

I, Andrew Gerber, an attorney duly admitted to practice law before the Courts of the State of New York and the United States District Court for the Southern District of New York, hereby affirm the following to be true under penalties of perjury:

1. I am a Member of the law firm Kushnirsky Gerber PLLC, counsel to Plaintiff Christina Menzel ("Plaintiff" or "Ms. Menzel") in the above-entitled action.

2. Defendants Fashion Choice Pte. Ltd. ("Fashion Choice"), Roadget Business Pte. Ltd. ("Roadget"), Shein Distribution Corporation ("SDC"), Shein US Services, LLC ("SUS"),

Zoetop Business Co., Limited (“Zoetop”) served their Initial Disclosures on Plaintiff on May 10, 2024.

3. Defendants Fashion Choice, Roadget, SDC, SUS, and Zoetop did not disclose the identity of Guangzhou Shein International Import & Export Co. Ltd. (“Guangzhou Shein”) or Shenhe International Holding Group Co. Ltd. (“Shenhe”) in these Initial Disclosures.

4. On May 15, 2024, Plaintiff served discovery requests on Defendants Fashion Choice, Roadget, SDC, SUS, and Zoetop and Shein Technology LLC (“STC”) (together, the “Defendants”).

5. Defendants Fashion Choice, Roadget, SDC, SUS, and Zoetop served written responses and objections thereto on June 14, 2024, but did not produce any documents. Defendant STC served written responses and objections thereto on July 29, 2024.

6. On August 22, 2024, Plaintiff discovered that Guangzhou Shein had obtained U.S. Copyright Registration No. VAu001490957 for a 2-D artwork titled “satin rose.” Exhibit A attached hereto is a true and accurate copy of the U.S. Copyright Office Public Catalog for this registration (last accessed October 28, 2024).

7. As “satin rose” is printed on over 100 of the infringing products that Plaintiff alleged Defendants displayed, offered for sale, and sold, Plaintiff had reason to believe that U.S. Copyright Registration No. VAu001490957 corresponded to that infringing design.

8. Plaintiff was prompted to review Defendants’ copyright registrations because of a lawsuit filed by Defendant Roadget on August 19, 2024, in which it alleged that PDD Holdings Inc. and Whaleco, Inc. d/b/a Temu infringed its copyrights in over forty images and designs for which it had obtained copyright registrations. This lawsuit is *Roadget v. PDD Holdings* (D.D.C. 24-cv-2402) (filed August 19, 2024).

9. On August 22, 2024, while reviewing Defendant Roadget's copyright registrations at issue in that lawsuit, Plaintiff discovered that many of those copyright registrations listed the entity Guangzhou Shein as the author of the work. Exhibit B attached hereto is a true and accurate copy of the U.S. Copyright Office Public Catalog for one of these registrations (No. VA 2-378-736) (last accessed October 28, 2024).

10. On August 22, 2024, while reviewing Defendant Roadget's copyright registrations, Plaintiff learned that Guangzhou Shein had been the initial copyright claimant on over 516 copyright registrations but had transferred the majority of these registrations to Defendant Roadget.

11. In doing so, Guangzhou Shein and Defendant Roadget represented to the U.S. Copyright Office that the two are "related entities." Exhibit C attached hereto is a true and accurate copy of the U.S. Copyright Office Public Catalog for a registration (No. VA 2-355-730) that was transferred from Guangzhou Shein to Defendant Roadget that contains this representation (last accessed October 28, 2024).

12. On August 23, 2024, Plaintiff's counsel initiated an expedited request for records pertaining to this registration from the U.S. Copyright Office to obtain more information about U.S. Copyright Registration No. VAu001490957.

13. Plaintiff's counsel was initially informed by the U.S. Copyright Office that it would take a minimum of fifteen to twenty business days to receive the records after the request and payment was processed.

14. On August 27, 2024, Defendants served their first document production on Plaintiff.

15. Plaintiff discovered new infringing products being displayed, offered for sale, and sold by Defendants on shein.com and romwe.com in May, August, September, and October 2024.

16. Plaintiff discovered infringing products on Amazon.com and other country and region-specific websites (“Amazon”) in September 2024. Upon information and belief, these were displayed, offered for sale, and sold by Defendant Roadget and proposed defendant Shenhe.

17. On September 16, 2024, Defendants served their second document production, which included the copyright registration for “satin rose.”


18. On September 30, 2024, Plaintiff received the certified records from the U.S. Copyright Office for U.S. Copyright Registration No. VAu001490957. This confirmed that the deposit copy matched the infringing design on over 100 products at issue in this Action.

19. Plaintiff’s counsel sent Defendants’ counsel a draft of the Proposed Second Amended Complaint and a redline version of the Proposed Second Amended Complaint on October 22, 2024. The Proposed Second Amended Complaint and redline version of the Proposed Second Amended Complaint that were sent to Defendants’ counsel are attached hereto.

20. On October 28, 2024, Defendants’ counsel notified Plaintiff that Defendants do not consent to Plaintiff filing the Proposed Second Amended Complaint. Defendants’ counsel did not give a reason for their refusal.

Dated: New York, New York
October 28, 2024

Respectfully Submitted,


By: _____
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